EXPLANATORY MEMORANDUM TO

THE AGRICULTURE (DELINKED PAYMENTS) (REDUCTIONS) (ENGLAND) REGULATIONS 2024

2024 No. [XXXX]

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs ("Defra") and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Sir Mark Spencer MP, the Minister of State for Food, Farming and Fisheries at Defra, confirms that this Explanatory Memorandum meets the required standard.

2.2 David Cooper, Deputy Director for Policy Design in the Farming and Countryside Programme at Defra, confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Claire Williams at Defra, Telephone: 0208 0262927 or email: claire.williams@defra.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument sets the percentage reductions which will be applied to delinked payments in England for 2024. Delinked payments were introduced on 1 January 2024 in place of Direct Payments to farmers under the Basic Payment Scheme ("BPS") in England.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England only.

5. Policy Context

What is being done and why?

5.1 As part of moving away from the Common Agricultural Policy, the Government has been gradually phasing out Direct Payments in England. It is doing this over an agricultural transition period (2021 to 2027), as provided for in its Agriculture Act 2020.

5.2 The Government announced these plans in 2018 in its "Health and Harmony: the future for food, farming and the environment in a Green Brexit - policy statement" (the "2018 Policy Statement").[1] This explained that Direct Payments are poor value for money, untargeted and can inhibit productivity improvements.

5.3 Phasing out Direct Payments frees up money to support agriculture in different ways, including paying farmers to improve the environment and support sustainable food production. This support is being provided through a wide range of schemes and grants to suit all farm types.[2]

5.4 The 2018 Policy Statement explained that percentage reductions would be made to farmers' Direct Payments from 2021. Reductions for Direct Payments under the BPS for the 2021 to 2023 claims year were applied by S.I. 2021/407, S.I. 2022/407 and S.I. 2023/456.

5.5 As part of the agricultural transition, delinked payments were introduced in place of Direct Payments to farmers under the BPS in England by the Agriculture (Delinked Payments and Consequential Provisions) (England) Regulations 2023 (S.I. 2023/1430). Delinked payments are a simpler type of payment. 2024 is the first year of delinked payments. The Government intends to apply reductions to delinked payments as it phases them out by the end of 2027. This instrument sets the percentage reductions to be applied to delinked payments for the year 2024.

5.6 The reductions the Government intends to apply for 2024 were announced in November 2020 in "The Path to Sustainable Farming: An Agricultural Transition Plan 2021 to 2024".[3] As was the case for the reductions applied to BPS payments for 2021 to 2023, the reductions to 2024 delinked payments will be applied in payment bands, with higher percentage reductions applied to amounts in higher payment bands. This is a method known as progressive reductions.

5.7 The reduction percentages for future years will be set in future secondary legislation.

What was the previous policy, how is this different?

5.8 S.I. 2023/1430 set out how delinked payments are to be calculated, based on historic BPS payment data. It did not make provision for applying percentage reductions to the payments. However, the Explanatory Memorandum for S.I. 2023/1430 explained the Government's intention to reduce delinked payments by applying percentage reductions each year (2024 to 2027) to phase the payments out. It also explained that the reduction percentages would be set in future secondary legislation, which would give Parliament an opportunity to debate the reductions nearer the time the payments will be made. This instrument sets those percentage reductions for 2024.

6. Legislative and Legal Context

How has the law changed?

6.1 Delinked payments were introduced in England on 1 January 2024 by S.I. 2023/1430 which also made provision for terminating Direct Payments under the BPS.

[1] 2018 Policy Statement: https://www.gov.uk/government/publications/the-future-for-food-farming-and-the-environment-policy-statement-2018/health-and-harmony-the-future-for-food-farming-and-the-environment-in-a-green-brexit-policy-statement

[2] Funding for farmers: https://www.gov.uk/guidance/funding-for-farmers

[3] Agricultural Transition Plan: https://www.gov.uk/government/publications/agricultural-transition-plan-2021-to-2024

6.2 This instrument is a free-standing instrument introduced to apply percentage reductions to delinked payments for the year 2024. It also modifies the meaning of "delinked payments" in Part 3 of S.I. 2023/1430 to make clear that when making delinked payments, the amount to be paid is the amount after applying the percentage reductions set in this instrument.

Why was this approach taken to change the law?

6.3 This instrument is drafted to make freestanding provision rather than as an amendment to S.I. 2023/1430. This is because there is no existing provision in S.I. 2023/1430 relating to the application of percentage reductions to delinked payments which could be amended.

7. Consultation

Summary of consultation outcome and methodology

7.1 Defra carried out a consultation on "The future for food, farming and the environment" from February to May 2018 (the "2018 consultation"), which led to over 40,000 responses.[4] This asked for views, amongst other things, on the method of reductions to be applied to Direct Payments. The progressive reductions in this instrument take account of the responses to that consultation. They balance the views of those who felt recipients of the highest payments should initially face higher reductions, with the strong calls for the reductions to be shared amongst all farmers from the start of the agricultural transition.

7.2 Defra also carried out a consultation on "Direct Payments to farmers: Lump sum exit scheme and delinked payments in England" from May 2021 to August 2021.[5] This included seeking views on some aspects of how delinked payments will be calculated. It did not seek views on progressive reductions as these had been consulted on in the 2018 consultation. However, it made clear that Defra intended to apply progressive reductions to delinked payments each year.

8. Applicable Guidance

8.1 Defra published a "Farming is changing" booklet in November 2020. This set out the intended reductions to be made to Direct Payments from 2021 to 2024. The Rural Payments Agency ("RPA") has since published a calculator that farmers can use to see how the planned reductions could affect their payment.[6]

8.2 The RPA also set out the intention to apply progressive reductions to delinked payments in the scheme guidance, first published in February 2022.[7] The RPA will update this guidance in April 2024 to confirm the reduction percentages it intends to apply for 2024.

[4] 2018 consultation and summary of responses: https://www.gov.uk/government/consultations/the-future-for-food-farming-and-the-environment
[5] 2021 consultation: https://consult.defra.gov.uk/agricultural-policy/lump-sum-and-delinked-payments-england/supporting_documents/lumpsumexitschemedelinkedpaymentsconsultation.pdf
[6] RPA calculator: https://calculate-direct-payment-reductions.defra.gov.uk/
[7] Guidance: https://www.gov.uk/guidance/delinked-payments-replacing-the-basic-payment-scheme

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because it is not a regulatory provision. This instrument relates to the giving of grants or other financial assistance by or on behalf of a public authority. In its Agricultural Transition Plan, the Government estimated that, compared to applying no reductions at all, the 2024 reductions set in this instrument will release around £970 million to £1,010 million. These released funds are being reinvested in other schemes for farmers and land managers, as explained in section 5.3 of this explanatory memorandum.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because this instrument does not introduce or amend regulatory provisions. In addition, the money freed up from the reductions to delinked payments is being reinvested in other schemes for farmers and land managers.

9.3 The legislation does not impact small or micro businesses. Although this instrument applies to all recipients of delinked payments, including those which are small or micro-businesses, it does not introduce or amend regulatory provisions. In addition, the money freed up from the reductions to delinked payments is being reinvested in other schemes for farmers and land managers. This includes schemes and options to suit all farm sizes.

9.4 There is no, or no significant, impact on the public sector. This is because the delivery body, the RPA, already has a delivery mechanism in place to apply progressive reductions to payments.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The Government has announced its intention to phase out delinked payments by the end of 2027. However, Defra and its agencies will monitor and review the impact of this instrument as part of its standard policy-making procedures. As this instrument is not a regulatory provision, no review clause is required.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 The Minister of State for Food, Farming and Fisheries, Sir Mark Spencer MP, has made the following statement regarding Human Rights:

"In my view the provisions of the Agriculture (Delinked Payments) (Reductions) (England) Regulations 2024 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts"). It does however relate to

the withdrawal of the United Kingdom from the European Union. This is because we only have the flexibility to make the changes in this instrument as a result of leaving the EU.